

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|----------------------------------------|---|-----------------|
| APPLICATION OF CONTEL CELLULAR OF |) | |
| KENTUCKY, INC. FOR ISSUANCE OF A |) | |
| CERTIFICATE OF PUBLIC CONVENIENCE AND |) | |
| NECESSITY TO CONSTRUCT AN ADDITIONAL |) | CASE NO. 95-052 |
| CELL FACILITY IN THE LOUISVILLE, |) | |
| KENTUCKY METROPOLITAN STATISTICAL AREA |) | |
| (SOUTH HURSTBOURNE CELL FACILITY) |) | |

O R D E R

On February 9, 1995, Contel Cellular of Kentucky, Inc. ("Contel Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in the Louisville Metropolitan Statistical Area ("Louisville MSA"). As discussed below, the application was amended on May 11, 1995 to propose construction of a monopole, without step bolts accessible to the public, rather than a tower. The proposed cell site consists of a monopole not to exceed 200 feet in height, with attached antennas, to be located at 8408-U Hudson Lane, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 10' 01" by West Longitude 85° 35' 49".

Contel Cellular has provided information regarding the structure of the monopole, safety measures, and antenna design criteria for the proposed cell site. Based upon the application, the design of the monopole and foundation appears to meet the criteria of the Building Officials and Code Administrators

International, Inc. National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the proposed cell site's construction is exempt from local zoning ordinances. However, Contel Cellular has notified the Louisville/Jefferson County Planning Commission of the proposed construction. Contel Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed cell site. Both decisions are pending.

Contel Cellular has filed notices verifying that each person who owns property or resides within 500 feet of the proposed cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. The Commission received numerous protests from area residents, and two requests for intervention, from Tim Shaughnessy and William H. Horton, ("Intervenors"), were granted in this matter. As a result of discussions with the Intervenors, Contel Cellular filed the May 11, 1995 amendment to its application. As a result of the amendment, the Intervenors filed letters stating their intent to withdraw from this proceeding. Mr. Shaughnessy's request to withdraw was granted on June 7, 1995. Mr. Horton filed a letter on June 19, 1995, confirming his request to withdraw, which should be granted.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon

complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Contel Cellular should notify the Commission if it does not use this monopole to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused monopole, which should be observed by Contel Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Contel Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in the Louisville MSA under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. Mr. Horton's request to withdraw as a party to this proceeding is hereby granted.

2. Contel Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole not to exceed 200 feet in height, with attached antennas, to be located at 8408-U Hudson Lane, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 10' 01" by West Longitude 85° 35' 49".


3. Contel Cellular shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

4. Contel Cellular shall immediately notify the Commission in writing, if, after the monopole is built and utility service is commenced, the monopole is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 6th day of July, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director